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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,186	06/03/2002	Dieter Dohring	TURKP0119US	2547

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EXAMINER

STERLING, AMY JO

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

10/031,186

Applicant(s)

DOHRING ET AL.

Examiner

Amy J. Sterling

Art Unit

3632

-- The MAILING DATE of this c mmunication appears n the cover sheet with the corresp ndence address --

## Peri d f r R ply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 November 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

This is the first Office Action for application number 10/031,186 Laminate Flooring Comprising tread Sound Proofing, claiming priority to PCT/EP99/08510, dated 11/06/1999 and German Application 199 36 127.4, dated 7/31/1999. Claims 1-9 are pending.

### ***Information Disclosure Statement***

The information disclosure statement submitted on 7/19/02 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5, the phrase "preferably light organic substances" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 7 recites the limitation "the panels" in line 1. There is insufficient antecedent basis for this limitation in the claim. The panels are assumed to be the floor covering.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5571588 to Lussi et al.

The patent to Lussi et al. discloses a floor covering (which is the substrate layer of Col. 3), firmly bonded to a thinner layer of vinyl chloride (See Col. 4, lines 47-53) thermoplastic with adhesive properties (the adhesive layers of Col. 4), which has a thickness of 0.1 to 5mm (See Col. 5, line 42, which has the coating thickness of 20 mils, which is equal to .51 mm). Lussi et al also shows fillers (See the spheroidal particles of Col. 5) which could be made of organic substances (See Col. 5, lines 55-60). Lussi et al. also discloses that the layers may be produced by heating the thermoplastic and then rolling it on the substrate. (See Col. 12, lines 20-63).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5571588 to Lussi et al. as applied to claim 1 above, and in view of United States Patent No. 5176833 to Vaughn et al.

Lussi et al. discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show wherein the thermoplastic material displays a marked physical relaxation behavior at ambient temperature.

Vaughn et al. shows a thermoplastic material which has the property of physical relaxation behavior at ambient temperature, to have a flexible surface. (See Col. 5, lines 67- Col. 6, lines 1-5). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Vaughn et al. to have the thermoplastic have the properties of being relaxed at ambient temperature, in order to have a flexible surface.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following show various thermoplastic coatings and method of application

United States Patent Publications

US 2003/0096079 to Messina et al.

US 2003/0074433 to Dohring

US 2003/0066708 to Allison et al.

United States Patents

6428873 to Kerr

5948500 to Higgins

5326629 to Vaughn et al.

5407617 to Oppermann et al.

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-305-3597 or 703-305-3598 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS  
Amy J. Sterling  
8/14/03



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER